



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2022-0002; FRL-9413-01-R4]

#### Approval and Promulgation of Implementation Plans;

#### Georgia: Approval of Revisions to State Implementation Plan; Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; correction and clarification.

**SUMMARY:** The Environmental Protection Agency (EPA) is correcting statements contained in a July 11, 2002, Federal Register notice of direct final rulemaking approving changes to the Georgia State Implementation Plan (SIP). Specifically, EPA stated that it was approving a change to the public notice requirements in Georgia's SIP for federally-enforceable operating permits. However, this change was never effective at the state level and, therefore, was never incorporated into the SIP. EPA is publishing this correction notice to eliminate any potential confusion regarding the public notice requirements in Georgia's SIP for these permits.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** EPA has established a docket for this notice of correction under Docket Identification No. EPA-R04-OAR-2022-0002 to provide electronic access to the July 11, 2002, submittal. All documents in the docket are listed on the [www.regulations.gov](https://www.regulations.gov) web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](https://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-

8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-

8960. Mr. Akers can be reached via telephone at 404-562-9089 or via electronic mail at [akers.brad@epa.gov](mailto:akers.brad@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Section 110 of the Clean Air Act (CAA) requires states to develop and submit to EPA a SIP to ensure that state air quality meets the National Ambient Air Quality Standards (NAAQS). These NAAQS currently address six criteria pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each state has a SIP containing the control measures and strategies used to attain and maintain the NAAQS. The SIP is extensive, containing such elements as air pollution control and permitting regulations, emission inventories, attainment demonstrations, and enforcement mechanisms. Each state must formally adopt the elements it proposes to include in its SIP after the public has had an opportunity to comment on them and must then submit the proposed SIP revisions to EPA. If the revisions meet all relevant CAA requirements, EPA must approve them through notice and comment rulemaking and incorporate the elements into the SIP at 40 Code of Federal Regulations part 52 - "Approval and Promulgation of Implementation Plans."<sup>1</sup>

EPA incorporated Georgia's "Operating (SIP) Permits" rule – Ga. Comp. R. & Regs. 391-3-1-.03, *Permits*, at Section (2) (hereinafter Rule 391-3-1-.03(2)) – into the Georgia SIP on August 30, 1995. See 60 FR 45048. Paragraph (i) of this rule requires the State to notify EPA

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<sup>1</sup> Georgia's SIP is set forth at 40 CFR 52.570.

and the public prior to issuing any federally-enforceable operating permit and provide the opportunity to comment on the draft permit. Georgia has not revised this public notice provision since its initial incorporation into the SIP.<sup>2</sup>

On July 11, 2002 (67 FR 45909), EPA approved numerous changes to the Georgia SIP through a direct final rule. This rule addressed regulatory changes transmitted to EPA on December 6, 1999, March 21, 2000, January 4, 2001, August 21, 2001, and December 28, 2001, by the State of Georgia, through the Georgia Department of Natural Resources' Environmental Protection Division (also known as GA EPD).

GA EPD's March 21, 2000, submittal contained several revisions to Rule 391-3-1-.03 and information indicating that it included changes to Rule 391-3-1-.03(2) for EPA approval. Specifically, the submittal contained a strikeout/underline draft version of Rule 391-3-1-.03(2)(i), that purported to eliminate the phrase "on the draft permit." In the preamble of the July 11, 2002, notice of direct final rulemaking, EPA indicated it was removing this phrase, stating that "*Rule 391-3-1-.03(2)(i)* is being amended to allow the public and EPA notification and review of a permit application to begin upon receipt of a permit application rather than upon completion of a draft permit."<sup>3,4</sup> See 67 FR 45909 at 45910. However, the submittal also included a final version of the rule that retained the phrase "on the draft permit" and a hearing record showing that the draft version of Rule 391-3-1-.03(2)(i) (eliminating the phrase "on the draft permit"), was never adopted by the Georgia Board of Natural Resources, and, therefore, was never state effective.

The direct final rule incorporated the final version of Rule 391-3-1-.03 into the SIP at 40 CFR 52.570(c). Because the draft change to the public notice requirement in Rule 391-3-1-

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<sup>2</sup> The SIP-approved version of Rule 391-3-1-.03(2) states "Prior to the issuance of any federally enforceable operating permit, EPA and the public will be notified and given a chance for comment on the draft permit."

<sup>3</sup> EPA erroneously made the draft change to Rule 391-3-1-.03(2)(i) in its online Georgia SIP compilation at <https://www.epa.gov/sips-ga>. EPA will correct this error in the SIP compilation at the time of publication or shortly thereafter.

<sup>4</sup> The SIP table at 40 CFR 52.570(c) contains an error in the entry for Rule 391-3-1-.03(2) indicating a December 26, 2001, state effective date. EPA intends to correct this table entry to reflect a state effective date of August 17, 1994, in the next routine update to the materials incorporated by reference into the Georgia SIP.

.03(2)(i) (eliminating the phrase “on the draft permit”), was never state effective, EPA could not have incorporated it into the SIP. Therefore, EPA did not approve any change to 391-3-1-.03(2) in the July 11, 2002, direct final rule, and the preamble description of EPA’s action was erroneous.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: February 4, 2022.

Daniel Blackman,  
*Regional Administrator,*  
*Region 4.*

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